

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

**STATUS CONFERENCE**

In Re: Levaquin Products Liability	)	<b>COURT MINUTES</b>
Litigation,	)	BEFORE: John R. Tunheim
	)	U.S. District Judge
Plaintiff,	)	
	)	Case No: 08-1943 JRT
v.	)	Date: December 15, 2008
	)	Deputy: Holly Morley
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 2:17 p.m.
Defendant.	)	Time Concluded: 3:09 p.m.
	)	Time in Court: 52 Minutes

Hearing on: **Status Conference**

The Court held a formal status conference in *In Re* Levaquin Products Liability Litigation on December 15, 2008. Appearing on behalf of the plaintiffs were Ronald Goldser, Lewis Saul, and David Cialkowski. Appearing on behalf of the defendants were John Dames, William Robinson, Tracy Van Steenburgh, and Jennifer Ampulski. The topics for the status conference included (1) the selection of bellwether trials and a discovery plan; (2) the deposition of defendants' expert witness Dr. John Seeger; and (3) several issues with Pretrial Order #3, which will cover Plaintiffs' Common Benefit Fund, Common Cost Fund, Contingent Fee Agreements, Fee and Cost Sharing, and Time and Expense Reporting. As to the selection of bellwether trials, the parties now agree that at least eight cases filed in Minnesota by Minnesota plaintiffs should be a part of the bellwether trial pool. The defendants argue, however, that this pool should also include up to six additional cases filed by plaintiffs residing elsewhere. In the next several days, the plaintiffs will review the cases suggested by the defendants and address those cases in a letter to the Court. Following a response by the defendants, the Court will resolve this dispute shortly. Once a bellwether trial pool has been chosen, the parties will proceed with discovery in those cases. As to the defendants' expert witness Dr. Seeger, the parties disagreed as to whether the plaintiffs should be allowed to depose him this early in the litigation. The parties agree that Dr. Seeger will be deposed in his capacity as an expert at a later stage of discovery. The plaintiffs, however, would like to depose him earlier, to explore a variety of factual issues. The Court ruled that the plaintiffs can proceed with a fact-oriented deposition of Dr. Seeger now, but must limit their questioning to facts and opinions related to events preceding his retention as an expert. As to Pretrial Order #3, the parties addressed three inter-related questions about (1) the circumstances in which defendants will be required to provide notice of proposed settlements in non-MDL cases; (2) how the phrase "work product" should be defined in the context of materials provided by the defendants to non-MDL plaintiffs; and (3) whether the Order should establish a specific amount that should be paid to the MDL plaintiffs when particular cases settle. The Court will consider those issues further and resolve those disputes shortly. The next status conference in this case will be held in January 2009.

**APPEARANCES:**

Plaintiff:	Ronald Goldser, Lewis Saul, David Cialkowski
Defendant:	John Dames, Tracy Van Steenburgh, William Robinson, Jr., Jennifer Ampulski

s/Holly A. Morley  
Calendar Clerk